

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ISSA SECK,

Plaintiff,

16-cv-7262 (PKC)

-against-

ORDER

DIPNA RX, INC. and PAATHIV SHAH,

Defendants.
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CASTEL, U.S.D.J.

The petition for a writ of mandamus filed by Abdul K. Hassan has been denied by the United States Court of Appeals for the Second Circuit and the mandate from that Court issued on August 14, 2018. (Doc 54.) The Court now turns to the open matters in this action. Familiarity with prior proceedings is assumed.

At a hearing held on January 31, 2018, Mr. Seck explained to the Court what he was seeking from Mr. Hassan:

THE COURT: All right. So that would mean that he [Hassan] would get \$8,333 of it. And he has received 13,000, right?

MR. SECK: Yes.

THE COURT: So what you're looking for, if I understand you correctly, is for him to give you \$4,667.

MR. SECK: That's what I told him.

THE COURT: Which is the difference between the \$8,333, which you believe he's entitled to, and the 13,000, which he actually received.

MR. SECK: Yes.

THE COURT: Is that right?

MR. SECK: Right.

(Doc 39, Tr. 8.)

Consistent with the understanding that Mr. Hassan had been overpaid by the amount of \$4,667, the Court issued the following order:

Mailed to Mr. Seck 10/19/2018

Abdul Karim Hassan shall show in writing by March 9, 2018 why he should not be ordered to disgorge and pay over to Issa Seck the sum of \$4,667 from the \$13,000 which he and his firm received as attorneys' fees from the \$25,000 payment by defendants because it is excessive, was not approved by the Court as required by Cheeks and/or contrary to the agreement with his client. Mr. Hassan is to mail a copy of his response to plaintiff.

(Doc 37, Order of Feb. 1, 2018.)

In a Declaration filed with this Court on March 9, 2018 (Doc 49-1), Hassan declared under penalty of perjury that

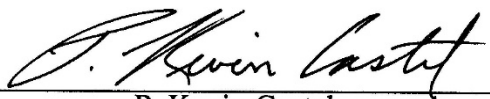
Contrary to the Court's conclusion in the above order to show cause, I did not receive \$13,000 in fees and costs in this case. As of the date of this declaration, my firm has still only received two payments totaling \$8,666.66 - \$8,111.66 in legal fees and \$555 in costs. As such, as of the date of this declaration, I have received less than a 1/3 fee (\$8,148), in this case after costs.

(Hassan Decl. ¶8.)

If true, the sum sought to be paid over by Mr. Hassan to Mr. Seck has not been paid by Dipna Rx Inc. to Mr. Hassan. Thus, there would appear to be nothing for Mr. Hassan to disgorge.

Let plaintiff Issa Seck show cause in writing by November 9, 2018 why the proceedings ought not be closed in this Court. If Mr. Seck has any evidence or proof that Mr. Hassan's statement is untrue, he shall submit it to the Court in writing by November 9, 2018, together with an affidavit or declaration under penalty of perjury.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
October 19, 2018